

AMENDED IN ASSEMBLY APRIL 21, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Constitutional Amendment

No. 9

Introduced by Assembly Member Gomez

February 19, 2016

Assembly Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 2 and 5 of Article IV thereof, relating to the Legislature.

LEGISLATIVE COUNSEL’S DIGEST

ACA 9, as amended, Gomez. Legislature: legislative vacancies.

The California Constitution, when a vacancy occurs in the Legislature, requires the Governor to immediately call an election to fill the vacancy.

This measure would instead require the Governor to fill a vacancy in either house of the Legislature by making an appointment within 60 days of the date of the vacancy from a list of 3 names selected by certain entities. The persons nominated by the entities would be required to have, at the time nominated and during the 12-month period immediately preceding, the same political party preference as the vacating Member had when he or she was last elected to the Legislature.

~~This measure would further require a person who vacates his or her position to payback the salary and travel and living expenses he or she received during the incomplete term of office, unless the Member vacated the seat for personal medical reasons.~~

The California Constitution requires the Legislature to enact laws prohibiting a Member of the Legislature from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for 12 months after leaving office.

This measure would, in addition, prohibit a Member of the Legislature who vacates his or her seat ~~prior to~~ *before* the expiration of the term of office for other than personal medical reasons from ~~being permitted to lobby, for compensation~~ *lobbying, for compensation*, before the Legislature until 12 months have passed from the date his or her term of office would have expired.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2015–16 Regular
3 Session commencing on the first day of December 2014, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California, that the Constitution of the
6 State be amended as follows:

7 First— The Legislature finds and declares that Members of
8 the Legislature are expected to fulfill the full term of office to
9 which they have been elected.

10 Second— That Section 2 of Article IV thereof is amended to
11 read:

12 SEC. 2. (a) (1) The Senate has a membership of 40 Senators
13 elected for four-year terms, 20 to begin every two years.

14 (2) The Assembly has a membership of 80 Members elected
15 for two-year terms.

16 (3) The term of a Senator or a Member of the Assembly shall
17 commence on the first Monday in December next following her
18 or his election.

19 (4) During her or his lifetime, a person may serve no more than
20 12 years in the Senate, the Assembly, or both, in any combination
21 of terms. This paragraph shall apply only to those Members of the
22 Senate or the Assembly who are first elected to the Legislature
23 after June 5, 2012, and who have not previously served in the
24 Senate or Assembly. Members of the Senate or Assembly who
25 were elected on or before June 5, 2012, may serve only the number
26 of terms allowed at the time of the last election before June 5,
27 2012.

28 (b) Election of Members of the Assembly shall be on the first
29 Tuesday after the first Monday in November of even-numbered
30 years unless otherwise prescribed by the Legislature. Senators

1 shall be elected at the same time and places as Members of the
2 Assembly.

3 (c) A person is ineligible to be a Member of the Legislature
4 unless the person is an elector and has been a resident of the
5 legislative district for one year, and a citizen of the United States
6 and a resident of California for three years, immediately preceding
7 his or her election or appointment, and service of the full term of
8 office to which the person is seeking to be elected, or is to be
9 appointed, would not exceed the maximum years of service
10 permitted by paragraph (4) of subdivision (a).

11 (d) (1) If a vacancy occurs in either house of the Legislature,
12 each of the following shall, within 30 days of the vacancy, provide
13 the Governor one name of a person nominated for appointment to
14 the vacancy:

15 (A) In the house in which the vacancy occurs, the legislative
16 caucus of the same political party preference the vacating Member
17 had at the time he or she was last elected to the Legislature. The
18 legislative caucus shall agree by a majority vote on the name of
19 the person to submit to the Governor for consideration.

20 (B) The delegates to the state convention of the same political
21 party preference the vacating Member had at the time he or she
22 was last elected to the Legislature who reside in the vacating
23 Member's district boundaries. The delegates shall agree by a
24 majority vote on the name of the person to submit to the Governor
25 for consideration.

26 (C) The county board of supervisors of the county or counties
27 in which the vacating Member's district is located. The county
28 board of supervisors or boards of supervisors jointly, as applicable,
29 shall adopt a resolution setting forth the name of the person to
30 submit to the Governor for consideration.

31 (2) The persons nominated pursuant to paragraph (1) shall have,
32 at the time they are nominated and during the 12-month period
33 immediately preceding, the same political party preference as the
34 vacating Member had at the time he or she was last elected to the
35 Legislature.

36 (3) Within 60 days of a vacancy in the Legislature, the Governor
37 shall fill the vacancy by appointing one of the persons nominated
38 pursuant to paragraph (1).

39 ~~(4) Unless a Member of the Legislature vacates his or her seat~~
40 ~~for personal medical reasons, the vacating Member shall reimburse~~

1 ~~the State for the full amount of the salary and travel and living~~
2 ~~expenses he or she received during the term of office for which~~
3 ~~he or she was last elected to the Legislature.~~

4 (5)

5 (4) The Legislature shall enact laws implementing this
6 subdivision.

7 Third— That Section 5 of Article IV thereof is amended to
8 read:

9 SEC. 5. (a) Each house shall judge the qualifications and
10 elections of its Members and, by rollcall vote entered in the journal,
11 two-thirds of the membership concurring, may expel a Member.

12 (b) No Member of the Legislature may accept any honorarium.
13 The Legislature shall enact laws that implement this subdivision.

14 (c) The Legislature shall enact laws that ban or strictly limit the
15 acceptance of a gift by a Member of the Legislature from any
16 source if the acceptance of the gift might create a conflict of
17 interest.

18 (d) No Member of the Legislature may knowingly accept any
19 compensation for appearing, agreeing to appear, or taking any
20 other action on behalf of another person before any state
21 government board or agency. If a Member knowingly accepts any
22 compensation for appearing, agreeing to appear, or taking any
23 other action on behalf of another person before any local
24 government board or agency, the Member may not, for a period
25 of one year following the acceptance of the compensation, vote
26 upon or make, participate in making, or in any way attempt to use
27 his or her official position to influence an action or decision before
28 the Legislature, other than an action or decision involving a bill
29 described in subdivision (c) of Section 12 of this article, which he
30 or she knows, or has reason to know, would have a direct and
31 significant financial impact on that person and would not impact
32 the public generally or a significant segment of the public in a
33 similar manner. As used in this subdivision, “public generally”
34 includes an industry, trade, or profession. However, a Member
35 may engage in activities involving a board or agency which are
36 strictly on his or her own behalf, appear in the capacity of an
37 attorney before any court or the Workers’ Compensation Appeals
38 Board, or act as an advocate without compensation or make an
39 inquiry for information on behalf of a person before a board or
40 agency. This subdivision does not prohibit any action of a

1 partnership or firm of which the Member is a member if the
2 Member does not share directly or indirectly in the fee, less any
3 expenses attributable to that fee, resulting from that action.

4 (e) The Legislature shall enact laws that prohibit a Member of
5 the Legislature whose term of office commences on or after
6 December 3, 1990, from lobbying, for compensation, as governed
7 by the Political Reform Act of 1974, before the Legislature for 12
8 months after leaving office, provided that a Member who has
9 vacated his or her seat ~~prior to~~ *before* the expiration of his or her
10 term of office for other than personal medical reasons shall ~~not be~~
11 ~~permitted to lobby~~ *be prohibited from lobbying* before the
12 Legislature for compensation until 12 months have passed from
13 the date his or her term of office was scheduled to expire.

14 (f) The Legislature shall enact new laws, and strengthen the
15 enforcement of existing laws, prohibiting Members of the
16 Legislature from engaging in activities or having interests which
17 conflict with the proper discharge of their duties and
18 responsibilities. However, the people reserve to themselves the
19 power to implement this requirement pursuant to Article II.